TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES

No. ~~137~~ 207.

GUSTAVUS L. HAUSSKNECHT, PLAINTIFF IN ERROR,

vs.

NORTON F. CLAYPOOL.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

FILED MARCH 22, 1870.

SUPREME COURT OF THE UNITED STATES.

No. 437.

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1 At a circuit court of the United States within and for the seventh judicial circuit and southern district of Ohio, begun and held at the court-house, in the city of Cincinnati, on the first Tuesday (being the fourth day) of October, in the year of our Lord one thousand eight hundred and sixty-four, and the independence of the United States of America the eighty-ninth—present, the Honorable N. H. Swayne & Honorable H. H. Leavitt, judges of said court—among the proceedings had were the following, to wit:

GUSTAVUS L. HAUSSKNECHT
vs.
NORTON F. CLAYPOOL & WILLIAM LYNN. } 1203.—Trespass on the case.

Be it remembered that heretofore, to wit, on the twenty-seventh day of May, in the year of our Lord one thousand eight hundred and fifty-nine, came the plaintiff by his counsel, and sued out of the clerk's office of said court a certain writ of summons ad respondendum herein; which said writ is in the words and figures following, to wit:

Summons.

UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

The President of the United States of America to the marshal of the southern district of Ohio, greeting:

You are hereby commanded to summon Norton F. Claypool and William Lynn, citizens of and residents in the State of Ohio, if they be found in your district, to be and appear in the circuit court of the United States for the southern district of Ohio aforesaid, at Cincinnati, on the first Tuesday in the month of June, 1859, to answer unto Gustavus L. Haussknecht, a citizen of and resident in the State of New York,
2 of a plea of trespass on the case. Damages, $5,000.
And have you then and there this writ.

Witness the Honorable Roger B. Taney, Chief Justice of the United States, this 27th day of May, A. D. 1859, and in the 83d year of the independence of the United States of America.

[SEAL.] Attest: JNO. McLEAN, JR., *Clerk.*

On which said writ was the following endorsements, to wit:

Cause of action.

Suit brought to recover damages for infringement of patent granted to plaintiff January 13th, 1852, reissued March 17th, 1857, for improvement in running-gear of carriages. Damages, $5,000.

LEE & FISHER,
Pl'ff's Att'ys.

Security for costs.

Lee & Fisher acknowledge themselves security for all costs for which the plaintiff may be liable in this suit. (See precipe.)

And afterwards, to wit, on the first Tuesday of June, A. D. 1859, being the time to which said writ was made returnable, came the marshal of said district, to whom said writ was in manner and form afore-

said directed, and returned the same into the clerk's office of said court, with his proceedings endorsed thereon in the words and figures following, to wit:

Marshal's return.

Received the within summons the 28th day of May, 1859, and served the same by delivering into the hands of the defendant William Lynn, on the day and year aforesaid, a true certified copy thereof; and on the 30th day of the same month and year, by delivering a true certified copy of said summons into the hands of Norton F. Claypool, the
3 other defendant.

LEWIS W. SIFFORD,
U. S. Marshal for the Southern District of Ohio,
By E. T. COX, *his Deputy.*

And afterwards, to wit, on the 31st day of May, in the year of our Lord one thousand eight hundred and fifty-nine, came the plaintiff by his counsel, and filed in the clerk's office of the court aforesaid his declaration herein; which said declaration is in the words and figures following, to wit:

Declaration.

Circuit court of the United States for the seventh circuit and southern district of Ohio, April term, A. D. 1859.

GUSTAVUS L. HAUSSKNECHT
vs.
NORTON F. CLAYPOOL AND WILLIAM LYNN. } Trespass on the case.

The plaintiff, Gustavus L. Haussknecht, comes and complains of the defendants, Norton F. Claypool and William Lynn, in a plea of trespass on the case:

For that whereas the said Gustavus L. Haussknecht, before and at the time of the making of the letters-patent and of committing the grievances by the said defendant hereinafter next mentioned, was the original inventor of a certain new and useful improvement in the running-gear of carriages, to wit, at New Haven, in the State of Connecticut, to wit, in the district aforesaid; and thereupon heretofore, to wit, on the thirteenth day of January, A. D. 1852, at the city of Washington, to wit, in the District aforesaid, certain letters-patent, under the hand
4 of the Secretary of the Interior of the United States, with the seal of the Patent Office of the United States thereto affixed, countersigned by the Commissioner of Patents of the United States, bearing date the day and year last aforesaid, were granted to the said Gustavus L. Haussknecht, (which letters-patent, or a duly authenticated copy thereof, the plaintiff now brings into court,) whereby was granted and secured to the said Gustavus L. Haussknecht, his heirs, administrators, or assigns, for the term of fourteen years from the said 13th day of January, A. D. 1852, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention & improvement, a full and exact description of which, with the mode of constructing and applying the same, is set forth in the written specification or description of the said Gustavus Haussknecht, in the words of the said Haussknecht, filed in the Patent Office of the United States

before the granting of said letters-patent, and made part of the same, as by reference to the aforesaid specification or description (here brought into court as aforesaid) will more fully and at large appear.

The plaintiff further says that said invention & improvement so patented was new and useful; that the said Gustavus Haussknecht was at the time of his application for said patent a citizen of the United States; that he was the original and first inventor of said invention & improvement so patented; and that the same was not known or used before his said invention, and was not in public use, or on sale with his consent or allowance, for more than two years before his application for said letters-patent.

The plaintiff further says that afterwards, to wit, on the seventh day of March, A. D. 1857, he surrendered to the Commissioner of
5 Patents said original patent so granted to him as aforesaid on the 13th day of January, A. D. 1852, in consequence of an inefficient and defective description and specification of said invention; and thereupon such proceedings were had that, on the 17th day of March, A. D. 1857, a new patent, under the hand of the Secretary of the Interior, with the seal of the Patent Office thereto affixed, countersigned by the Commissioner of Patents, bearing date the day and year last aforesaid, were granted to the said plaintiff on an amended description previously filed in the Patent Office for the same invention and improvement, (which letters-patent, or a duly authenticated copy thereof, the plaintiff now brings into court,) whereby was granted and secured to the plaintiff, his heirs, administrators, or assigns, for the term of fourteen years from the 13th day of January, A. D. 1852, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention and improvement, a description where is given in the schedule annexed to said last-mentioned letters-patent, and made part of the same, as by reference to said last-mentioned letters-patent (here brought into court as aforesaid) will more fully and at large appear.

The plaintiff further says that he has heretofore made, constructed, used, and vended to others to be used, said invention & improvement, to his great advantage and profit, to wit, at the district aforesaid.

Yet the said defendants, well knowing the premises, but contriving and wrongfully intending to injure the said plaintiff, and to deprive him of the profits, benefit, and advantage which he might and otherwise would have derived and acquired from the making, constructing, using,
6 vending to others to be used, the said invention & improvement, after the making of said letters-patent after the reissue thereof as aforesaid, and within the said term of years in the said letters-patent mentioned, to wit, on the twentieth day of March, A. D. 1857, at Zanesville, in the county of Muskingum, to wit, in the district aforesaid, and on divers other days and times between that day and the commencement of this suit, unlawfully and unjustly, against the will of said plaintiff, and without the leave or license of the said plaintiff, did make a large number of carriages, to wit, three hundred, containing the improvement invented by and patented to plaintiff as aforesaid, in imitation, of said invention, in breach of said letters-parent, and in violation and infringement of the exclusive right thereto so as aforesaid acquired by the plaintiff, and contrary to the form of the statutes in such case made and provided, whereby the said plaintiff, patentee as aforesaid, has been greatly injured and deprived of a great parts of the profits and advantages which he might and otherwise would have derived and acquired from the said invention, to wit, at the district aforesaid.

And also for that whereas the said Gustavus L. Haussknecht, before and at the time of the making of the letters-patent, and of the committing the grievances by the said defendant hereinafter next mentioned, was the original and first inventor of a certain new and useful improvement in the running-gear of carriages, to wit, at New Haven, in the State of Connecticut, to wit, in the district aforesaid; and thereupon heretofore, to wit, on the 13th day of January, A. D. 1852, at the city of Washington, to wit, in the District aforesaid, certain letters-patent, under the hand of the Secretary of the Interior of the United States, with the seal of the
7 Patent Office of the United States thereto affixed, countersigned by the Commissioner of Patents of the United States, bearing date the day and year last aforesaid, were granted to the said Gustavus L. Haussknecht, (which letters-patent, or a duly authenticated copy thereof, the plaintiff now brings into court,) whereby was granted and secured to the said Gustavus L. Haussknecht, his heirs, administrators, or assigns, for the term of fourteen years from said 13th day of January, A. D. 1852, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention & improvement, a full and exact description of which, with the mode of constructing and applying the same, is set forth in the written specification or description of the said Gustavus L. Haussknecht, in the words of the said Haussknecht, filed in the Patent Office of the United States before the granting of said letters-patent and made part of the same, as by reference to the aforesaid specification or description (here brought into court as aforesaid) will more fully and at large appear.

The plaintiff further says that the said invention and improvement so patented was new and useful; that the said Gustavus L. Haussknecht was at the time of his application for said patent a citizen of the United States; that he was the original and first inventor of said invention & improvement so patented; and that the same was not known or used before his said invention; and was not in public use or on sale with his consent or allowance for more than two years before his application for said letters-patent.

The plaintiff further says that afterwards, to wit, on or about the 17th day of March, A. D. 1857, he surrendered to the Commis-
8 sioner of Patents said original patent so granted to him as aforesaid on said 13th day of January, 1852, in consequence of an insufficient & defective description and specification of said invention; and thereupon such proceedings were had that, on the 17th day of March, A. D. 1857, a new patent was granted to plaintiff on an amended description previously filed in the Patent Office for the same invention & improvement, which said new letters-patent were granted under the hand of the Secretary of the Interior, with the seal of the Patent Office thereto affixed, countersigned by the Commissioner, and bearing date the day and year last aforesaid, (which said new letters-patent, or a duly authenticated copy thereof, the plaintiff now brings into court,) whereby was granted and secured to the plaintiff, his heirs, administrators, or assigns, for the term of fourteen years from the 13th day of January, 1852, the full & exclusive right & liberty of making, constructing, using, and vending to others to be used, the said invention & improvement, a description whereof is given in the schedule annexed to said last-mentioned letters-patent and made part of the same, as by reference to said last-mentioned letters-patent (here brought into court as aforesaid) will more fully and at large appear.

The plaintiff further says that he has heretofore made, constructed,

used, and vended to others to be used, said invention & improvement to his great advantage and profit, to wit, at the district aforesaid.

Yet the said defendants, well knowing the premises, but further contriving and wrongfully intending to injure the said plaintiff, and to deprive him of the profits, benefit, and advantage which he might
9 and otherwise would have derived and acquired from the making, constructing, using, vending to others to be used, the said invention & improvement, after the making of said letters-patent, and after the reissue of the same on the 17th day of March A. D. 1857, as aforesaid, and within the said term of years in the said letters-patent mentioned, afterwards, to wit, on the seventeenth day of March, A. D. 1857, at Zanesville, in the county of Muskingum, to wit, in the district aforesaid, and on divers other days and times between that day and the commencement of this suit, unlawfully and unjustly, against the will of said plaintiff, and without the leave or license of the said plaintiff, did vend to others to be used a large number, to wit, three hundred carriages, containing the improvement invented by and patented to plaintiff as aforesaid, in imitation of said invention, in breach of said letters-patent, and in violation and infringement of the exclusive right thereto so as aforesaid acquired by the plaintiff, and contrary to the form of the statutes in such case made and provided, whereby the said plaintiff, patentee as aforesaid, has been greatly injured and deprived of a great part of the profits and advantages which he might and otherwise would have derived and acquired from the said invention, to wit, at the district aforesaid, to the actual damage of the plaintiff five thousand dollars. And therefore he sues by his attorneys.

LEE & FISHER.

And afterwards, to wit, on the 14th day of December, in the year of our Lord one thousand eight hundred and fifty-nine, came the defendants by their counsel, and, by leave of the court first had and obtained, filed in the clerk's office aforesaid their plea & notice herein;
10 which said plea & notice is in the words and figures following, to wit:

Plea & notice.

Circuit court of the United States for the south. dist. of Ohio.

GUSTAVUS L. HAUSSKNECHT
vs.
NORTON F. CLAYPOOL AND WILLIAM LYNN.

And the said defendants, by their attorney, C. D. Coffin, come and defend the wrong and injury when, &c., and say that they are not guilty of the supposed grievances above laid to their charge, or any or either of them, or any part thereof, in manner and form as the said plaintiffs hath above thereof complained against them. And of this the said defendants put themselves on the country, &c.

C. D. COFFIN,
Att'y for Def'ts.

SIR: Please take notice that the defendants upon the trial of this cause will insist upon and give in evidence, in pursuance of the statute in such case made and provided, and in addition to the plea of the general issue above pleaded, and in defense and bar of each cause of action,

that the said Haussknecht was not the original or first discoverer or inventor of the invention or improvements described and referred to in his declaration in the above-entitled cause, and patented to him, as is alleged in his declaration, or of a substantial and material part thereof claimed as new and as his invention, but that said invention or
11 improvement, or a substantial and material part thereof, claimed by said Haussknecht, had been invented and discovered by Edward Everett, of Quincy, Ill's, and Charles Everett, junior, of Washington, D. C., before the time of the alleged invention thereof by said Haussknecht; and that for their said invention or discovery of said invention or improvement the said Edward Everett and Charles Everett, junior, obtained and had granted to them, in due form of law, letters-patent of the United States, which said letters-patent bear date 17th December, one thousand eight hundred and fifty, and by which said letters patent was granted to said Edward Everett and Charles Everett, junior, their heirs, representatives, and assigns, for the term of 14 years from said December seventeenth, one thousand eight hundred and fifty, the full and exclusive right and liberty of making, using, and selling to others to be used, the said invention or improvement described therein, as reference being had to said letters-patent and specification making part hereof will more fully and at large appear.

And the said defendants will also insist upon, and give in evidence for a further defense to this suit, that said Haussknecht was not the original and first inventor and discoverer of the said invention and things patented to him, as alleged in his said declaration; and that if said Haussknecht was the inventor and discoverer of anything connected with, or having reference to the said invention described in said letters-patent, that said letters-patent is not confined to said actual invention of said Haussknecht, and that said claim of said Haussknecht in his said patent was not made through inadvertance, accident, or mistake, but was made designedly, and with intent to defraud and mislead
12 the public.

And these defendants, for a further defense, will insist upon, and give in evidence, that said Haussknecht was not the original and first inventor and discoverer of the things patented to him, as alleged in his said declaration, and that he was not the first or original inventor and discoverer of a substantial or a material part thereof claimed as new, but that said invention, or a substantial or material part thereof, had been described in public or printed works anterior to the supposed discovery or invention thereof by said Haussknecht, and, among others, in the following: in a printed work called "The Cyclopedia, or Universal Dictionary of Arts, Sciences, and Literature," by Abraham Rees, D. D., F. R. S., illustrated by numerous engravings, first American edition, volume ninth, title Coach, and illustrated in plate thirteen of mechanics, figure second of same work, which work was published in the city of Philadelphia, Pennsylvania, from one thousand eight hundred and ten to one thousand eight hundred and twenty-four; and in a certain other printed work published in France, in the French language, called "Brevett's d'invention," being or containing a record or statement of patents granted in France, or by the French government, 1850, reference being more particularly had to a certain patent therein described on pages three hundred and sixty-two to three hundred and seventy, illustrated by plate twenty-seven, of same volume, granted to one Peter Tabus, in one thousand eight hundred and thirty-eight, for improvements in running-gear of carriages; and in a certain other work or periodical called and known as the "Cultivator," and published at

Albany, New York, at page forty-three, of volume four, new
13 series of such work, and published in the year one thousand eight hundred and forty-seven; and in other printed works and periodicals; and that, as these defendants believe, the said Haussknecht had knowledge of such prior invention and publication.

And for a further defense these defendants will insist upon and give in evidence that said invention or improvement described in said plaintiff's declaration, and claimed to be his invention, or a substantial and material part thereof, had been in public use, & was known before and anterior to the said supposed or alleged invention or discovery thereof by said Haussknecht, of which said defendants believe said plaintiff was aware, and among others, had been known to John R. Lawrence & Solomon Collis, composing the firm of Lawrence & Collis, of New York City, N. Y., and the firm of Collis & Lawrence, of New Haven, Conn.; to John R. Lawrence, of New York, & Solomon Collins, of New Haven, Conn.; to James Buckridge, Charles Beardsley, & Horace Franklin, John C. Parker, & Harvey Minor, of said New York City; to Hedenburgh and William M. Little, composing the firm of Hedenburgh & Little, of Newark, New Jersey; to Dr. Samuel W. Everett, Edward Everett, Harrison Dills, & Abraham Van Fleet, all of Quincey, Ill's; to Charles Everett, of Washington, D. C.; to William W. Seymour, Eli Foote, both of Ridgefield, Conn.; to Augustus Lyon, of Norfolk, Conn; to Platt Brush, of Brewster's Station, Putnam County, New York; to William Jennings, of New Haven, Conn; to Daniel Sarles, of Montrose, Penn.; to James Muck, or Mack, of Bridgwater, Penn.; to William C. Cassell, & James Morrow, & Davis Palmer, of Zanesville, Ohio; & to Chauncey Ball, Alfred Ball, & Ward, of Neward, Ohio, & to many other persons, and that the said invention or
14 improvement, or a substantial or material part thereof, had been used prior to the alleged invention thereof by said Haussknecht, at the carriage manufactory of Lawrence and Collis, at No. 12 Vesey st., and No. 6 Barclay st., New York; & of Lawrence & Collins, at same place in New York; at the carriage manufactory of Collis and Lawrence, Nos. 257, 259, & 261 Chapel street, New Haven, Conn.; & *at the carriage establishment of Collins & Lawrence, in New Haven, Conn., at No.* 257, 259, & 261 *Chapel street;* at the carriage manufactory of Hedenburgh & Lytle, Newark, New Jersey; at the carriage-shop of Charles Beardsley, at Montrose, Penn.; at the wagon-making & blacksmiths' shop of Harrison Dills, Quincey, Ill.; and at the carriage manufactory of Brush, Olmstead & Co., Bridgefield, Conn.; & at the carrige-makers' shop of James McElbertson, on Fifth street, between Main & South street, near an alley, on said street, in Zanesville, Muskingum County, Ohio; and at the carriage-makers' shop of James McElbertson, at same place, in said town, & now city, of Zanesville, Ohio; and at the carringe-maker's shop of Ball & Ward, in Newark, Licking Co., Ohio; and that the persons above named possessed a knowledge that the said improvement described in the plaintiff's patent, or a material part thereof, had been used in the several places above named long prior to the supposed invention of the plaintiff.

And the said defendants, for further defense in this suit, will insist upon and give evidence that the said surrender by said plaintiff, as is alleged in his said declaration of his said letters-patent, as granted to him in 1852, was made by said plaintiffs with a fraudulent and deceptive intent, and was not made for any of the reasons or causes
15 set forth or *or* mentioned in the statute for which a surrender of letters-patent may be made, and was not a legal and valid sur-

render within the meaning and intent of the provision of the statute as to the surrender of letters-patent, and in such case made and provided; and that therefore such surrender was illegal, null, and void, and that the said reissue of said letters-patent of March, 1857, mentioned and referred to in said declaration, and granted upon the said surrender of said letters-patent of 1852, was also without authority of law, and null and void; and these defendants will also insist upon, and give in evidence, that the said reissued letters-patent of 1857, referred to in plaintiff's declaration, & described to the pl'ff or his att'ys, embrace & claim other and different inventions and improvements than those described and contained in said first or surrendered letters-patent, and that said reissued letters-patent are therefore null & void.

C. D. COFFIN,
Att'y for the Def'ts.

To the PL'FF or his ATTORNEYS.

And afterwards, to wit, on the 22nd day of October, in the year of our Lord one thousand eight hundred and sixty, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. L, page 27.

This day came the parties by their attorneys, and thereupon came a jury, to wit, William Newman, Daniel Colby, D. G. Fitch, John E. Thomas, James Rawlings, David Clark, James Rowe, Samuel McCurdy, Robert A. Constable, John Griffis, James Malone, & Franklin Halliday, who, being duly empanelled and sworn well and truly to try the
16 issue joined between the parties, and the evidence in this cause not being concluded, the court adjourned the jury until to-morrow morning at half past nine o'clock, to which time this cause is continued.

And afterwards, to wit, on the 23d day of October, A. D. 1860, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. L, page 28.

This day came again the parties by their attorneys, and also the jurors empanelled and sworn herein, and the evidence not being concluded, the court adjourned the jury until to-morrow morning at half past nine o'clock, to which time this cause is continued.

And afterwards, to wit, this cause progressed from day to day until Thursday, the first day of November, A. D. 1860, when an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—L, page 43, verdict.

This day again came the parties by their attorneys, and also the jurors heretofore empanelled and sworn the truth to speak upon the issue joined between the parties, who upon their oaths do say that the said defendants are not guilty in manner and form as the said plaintiff hath complained against them.

And thereupon came the plaintiff by his attorneys, and filed his motion for a new trial.

And afterwards, to wit, on the 2d day of November, in the year last aforesaid, came the plaintiff, by Lee & Fisher, his attorneys, and presented a bill of exceptions to the ruling of the court upon the
17 trial of this cause; which said bill was signed, sealed, and ordered to be made a part of the record in this cause, and which is in the words and figures following, to wit:

Bill of except's.

Circuit court U. S., south'n dist. of Ohio.

GUSTAVUS L. HAUSSKNECHT
vs.
CLAYPOOL & LYNN. } No. 1203.

Be it remembered that, on the trial of this cause, the plaintiff, to sustain the issue on his part, offered himself, said Gustavus L. Haussknecht, as a witness in his own behalf, and his counsel claimed that said plaintiff was a competent witness in his own behalf in said cause, & entitled by the laws of the State of Ohio to testify for himself in said cause. To the admission of the evidence of said witness the defendants objected, & claimed that, being a party to the cause and plaintiff, he was incompetent by the law of Ohio to testify, &, if competent, because no notice of his intention to testify had been given to the defendant or his attorney, and because, by a standing rule of this court, a party to a suit therein is made incompetent to testify as a witness in such suit; and the court sustained said objection, and refused to permit the plaintiff to testify. To which ruling the plaintiff excepted, & prayed that a bill of exceptions by reason of the ruleing aforesaid be allowed, and ordered to be signed & sealed & made a part of the record of this cause; which is done and ordered accordingly.

H. H. LEAVITT. [SEAL.]

And afterwards, to wit, on the 13th day of November, A. D.
18 1860, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—L, page 56.

This day came the defendants by Messrs. Coffin & Mitchell, their attorneys, and moved the court to enter a judgment upon the verdict herein; wherefore it is considered by the court that the said defendants go hence without day, and recover of the said plaintiff their costs in this behalf expended, taxed at $; and execution is awarded therefor.

And afterwards, to wit, on the 26th day of November, 1860, a copy of the writ of error was filed herein; which said writ of error is in the words and figures following, to wit:

Copy of writ of error.

Supreme Court of the United States.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the circuit court of the United States within and for the southern district of Ohio, greeting:

Because, in the record and proceedings, and also in the rendition of a

judgment in a plea which is in the said circuit court before you between Gustavus L. Haussknecht, plaintiff, and Norton F. Claypool and William Lynn, defendants, a manifest error hath happened, to the great damage of the said Gustavus L. Haussknecht, as by his complaint appears; and, it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so
19 that you have the same at the city of Washington on the first Monday in the month of December next, in the said Supreme Court then and there to be held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-third day of November, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the 85th.

[SEAL.] Attest: JNO. McLEAN, JR., *Clerk.*

Allowed by—

H. H. LEAVITT, *Judge, &c.*

And afterwards, to wit, but on the same day, and in the year last aforesaid, a copy of the citation herein was filed in the clerk's office of the court aforesaid; which citation is in the words and figures following, to wit:

Citation.

The United States of America, Supreme Court of the United States, to Norton F. Claypool and William Lynn, greeting:

Whereas Gustavus L. Haussknecht obtained the allowance of our writ of error, to the judges of the circuit court of the United States within and for the southern district of Ohio directed, to remove into the said Supreme Court, to be holden at the city of Washington on the first Monday of December next, the record of a certain plaint,
20 process, proceedings, and judgment in an action of trespass on the case, wherein you, the said Norton F. Claypool and William Lynn, in that action lately recovered against the said Gustavus L. Haussknecht a judgment and costs, as by the said record in the said circuit court of the United States for said southern district of Ohio remaining appears, in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said Gustavus L. Haussknecht we are informed, and our said writ of error granted, issued, and allowed as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be:

You are, therefore, hereby commanded and cited to be and appear before the judges of the said Supreme Court, at the city of Washington, at the next term of said court, to be holden on the first Monday in the month of December next, to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness the Hon. Roger B. Taney, Chief Justice of the United States of America, this 23rd day of November, in the year of our Lord one

thousand eight hundred and sixty, and of the independence of the United States of America the 85th.

[SEAL.]

H. H. LEAVITT,
Dist Judge U. S. South. Dist. of Ohio.

Upon which said citation was the following endorsement, to wit:

Return to citation.

This writ was served upon us Nov. 26, '60.

COFFIN & MITCHELL,
Att'ys for Claypool & Lynn.

21 And afterwards, to wit, but on the same day, and in the year last aforesaid, there was filed in the clerk's office of said court appeal bond herein; which said appeal bond is in the words and figures following, to wit:

Appeal bond.

Know all men by these presents that we, George M. Lee and Samuel S. Fisher, are held and firmly bound unto Norton F. Claypool and William Lynn in the full and just sum of six hundred dollars, to be paid to the said Claypool and Lynn, their certain attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this twenty-third of November, in the year of our Lord one thousand eight hundred and sixty.

Whereas lately, at a circuit court of the United States within and for the southern district of Ohio, at Cincinnati, in a suit pending in said court between Gustavus L. Haussknecht, plaintiff, and Norton F. Claypool & W'm Lynn, defendants, judgment was rendered against the said plaintiff; and the said plaintiff having obtained a writ of error, and filed a copy thereof in the clerk's office of said court, to reverse the judgment in the aforesaid suit, and a citation directed to the said defendants, citing and admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next:

Now, the condition of the above obligation is such, that if the said Gustavus L. Haussknecht shall prosecute his writ of error to effect, and answer all damages and costs if he fail to make his plea good,
22 then the above obligation to be void; else to remain in full force and virtue.

G. M. LEE. [SEAL.]
SAM'L S. FISHER. [SEAL.]

Approved by—

H. H. LEAVITT.

And afterwards, to wit, on the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and sixty-three, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. L, page 424.

This day came Lee & Fisher, the plaintiff's attorneys, and produced

and filed in court here the mandate of the Supreme Court of the United States in the above-stated case, which is in the words and figures following, to wit:

"UNITED STATES OF AMERICA, *ss:*

"The President of the United States of America to the honorable the judges of the circuit court of the United States for the southern district of Ohio greeting:

"Whereas lately, in the circuit court of the United States for the southern district of Ohio, before you or some of you, in a cause between Gustavus L. Haussknecht, plaintiff, and Norton F. Claypool and William Lynn, defendants, the judgment of the said circuit court was in the words and figures following, to wit:

"'Therefore it is considered by the court that the said defendants go hence without day, and recover of the said plaintiff their costs in this behalf expended, taxed at $; and execution is awarded therefor:'

"As by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States by virtue of a writ of error agreeably to the act of Congress in such case made and provided, fully and at large appears:

23 "And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and sixty-one, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and was argued by counsel:

"On consideration whereof it is now here ordered and adjudged by this court that the judgment of the said circuit court in this cause be, and the same is hereby, reversed, with costs; and that the said plaintiff, Gustavus L. Haussknecht, recover of the said defendants seventy-nine dollars and thirty-one cents for his costs herein expended, and have execution therefor:

"And it is further ordered that this cause be, and the same is hereby, remanded to the said circuit court, with directions to award a venire facias de novo, (17 March:)

"You, therefore, are hereby commanded that such execution & further proceedings be had in said cause in conformity to the opinion and judgment of this court, as according to right and justice and the laws of the United States ought to be had, the said writ of error notwithstanding.

"Witness the Honorable Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year our Lord one thousand eight hundred and sixty-one.

"Costs of plaintiff: clerk, $59 31; attorney, $20 00—$79 31t, axed by W'm Carroll, clerk of the Supreme Court of the United States."

And thereupon, on motion of the said Lee & Fisher, it is ordered that the said G. L. Haussknecht have his execution for the moneys aforesaid, pursuant to the said mandate.

And afterwards, to wit, on the 16th day of April, A. D. 1863, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. L, page 462.

24 On motion of defendants, it is ordered that plaintiff within ninety days give other and new security for costs, or, in default, that this cause be stricken from the docket.

And afterwards, to wit, on the 8th day of October, A. D. 1863, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. M, page 21.

On motion of defendants, it is ordered that inasmuch as plaintiff has heretofore deposited in this case $50 and $300 in U. S. bonds, which exceed the costs now due in the case, by consent of parties, the court order that Lee & Fisher, the former sureties in this cause, be released from further liability as surety for costs in this case; & that plaintiff within the term either give other personal surety for costs in the cause, or deposit as bail for costs the further sum of $450, with leave to withdraw the U. S. bonds; and this cause is continued to the next April term of the court.

And afterwards, to wit, on the 5th day of October, in the year of our Lord one thousand eight hundred and sixty-four, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. M, page 235.

This day came the parties by their attorneys, and thereupon came a jury, to wit, Lewis Dagner, George W. Johnson, Parker Rankin, Pryor Kirk, Lysle Lodwick, R. M. Swinn, Nelson Franklin, Edward Clarke, James Shirley, Alexander Pendery, William Roney, and William Jolly, who were duly empannelled, sworn, & affirmed well and truly to try the issue joined between the parties in this cause, when the court adjourned the jury until to-morrow morning at 9½ o'clock, until which time this cause is continued.

25 And afterwards, to wit, on the 6th day of October, A. D. 1864, an entry was made upon the journal of said court in the words and figures, following, to wit:

Entry.—Jour. M, p. 236.

Now come the defendants by their attorney, and suggest the death of Willian Lynn, one of the defendants herein. It is thereupon ordered by the court that this cause proceed against Norton F. Claypool alone, as surviving partner of the late firm of Claypool & Lynn, and leave is given to amend and modify the pleadings accordingly; and thereupon again came the parties by their attorneys, and also the jurors heretofore empannelled, sworn, and affirmed the truth to speak upon the issue joined between the parties herein; and counsel not having concluded the evidence, the court adjourned the jury until to-morrow morning at 9½ o'clock, to which time this case is continued.

And afterwards, to wit, on the 12th day of October, A. D. 1864, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. M, p. 241.

This day again came the parties by their attorneys, and also the

jurors heretofore empannelled, sworn, and affirmed herein; and counsel not having finished the evidence, the court adjourned the jury until 9½ o'clock to-morrow morning, to which time this cause is continued.

And afterwards, to wit, this cause progressed from day to day until the fifteenth day of October, in the year last aforesaid, when an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. M, p. 245.

This day again came the parties by their attorneys; and also the jurors heretofore empannelled, sworn, and affirmed the truth to speak upon the issue joined between the parties, upon their oaths
26 do say that the said defendant is not guilty in manner and form as the said plaintiff hath complained against him; therefore it is considered that the said defendant go hence without day, and recover of the plaintiff his costs in this behalf expended, taxed at $492 41, (which was paid afterwards.)

And afterwards, to wit, on the 20th day of October, in the year last aforesaid, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. M, p. 249.

Be it remembered that this day a bill of exceptions, taken by plaintiff to the ruling of the court on the trial of this cause, was presented by the plaintiff and signed, sealed, and ordered to be made part of the record; which said bill of exceptions is in the words and figures following, to wit:

Bill of exceptions.

Be it remembered that, on the trial of this cause, the plaintiff, to sustain the issue on his part, put in evidence his reissued patent, granted to him by the government of the United States, dated March 17th, 1857, and hereto attached and made part of this bill of exceptions, marked A. The plaintiff also gave in evidence a model of his invention, as illustrating the same, which model, made of brass, is hereto appended and made a part of this bill of exceptions, and directed by the court to be filed herewith. The plaintiff, to prove the infringement herein, also put in evidence the deposition of William Clancy, hereto appended and made part of this bill of exceptions, marked B, and, having offered evidence to establish the date of his invention, rested his case.

Whereupon the defendant, having offered evidence under his notices of special matter, (all of which notices are on file, and made part
27 of the record,) then introduced John Gosling, and several other witnesses, who severally had, long before the time of the plaintiff's invention, been carriage-builders, and proved that they, severally, were well acquainted with the art of carriage-making at the time of, and long before the time of, the invention of the improvement by the plaintiff as described in his patent; and also proved by said witness that, anterior to the plaintiff's patented invention, and at the time thereof, the art of carriage-building had so far advanced that carriages had been well known and in common use having the king-bolt in the rear of the

fore-axle, also having full circles or 5th-wheels, also segments of circles; that some of these carriages combined the segments of circles, or a full circle, with the king-bolt in the rear of the front axle, as described by the plaintiff in his patent, with a single hook placed in front in line with the perch projecting over the edge of the lower segment, preventing the segments from separating, but not serving as a stopper; but they did not know, and never had seen, hooks upon 5th-wheels, or on segments of circles of carriage couplings placed at the points designated by the letters *c c* in Figure 2 in the drawings of the plaintiff attached to his patent for the purposes therein stated; and did not know, and never had seen, two hooks placed upon 5th wheels or segments of circles at the points or places where the said hooks were placed in the model of the plaintiff's invention then exhibited to the witness; which model is the one hereinbefore described, and is made a part of this bill of exceptions.

And the defendant introduced testimony tending to prove that
28 in all the carriages made by the defendants there was only used a single hook in connection with the segments of circles, which single hook was always placed at the centre, and serving to keep the segments together, and not serving as "stoppers." [Not objected to.]

To all which testimony [of the state of the art] the plaintiff objected, claiming no sufficient notice had been given to justify its admission; but the court overruled the objections & admitted the evidence; to which ruling the plaintiff then & there excepted, and the court here sign this bill accordingly.

And after further testimony the same was closed; the plaintiff claimed that he had under his patent a right to recover damages from the defendant by reason of the infringement proved by the deposition of said Clancy, although the segments in the coupling made and sold by the defendant were only secured or fastened together by one hook placed in front, instead of the two, as described in plaintiff's patent, provided said one hook accomplished what the witness testified in said deposition it was intended to accomplish, which the plaintiff claimed was the same object as the two hooks described and recommended in plaintiff's patent; and the plaintiff asks the court to so construe his said patent and to charge the jury accordingly.

And thereupon the court charged the jury as follows:

"The plaintiff does not claim to have invented anything new but a combination, and that combination one of old things.

"He admits that the placing of the pivot behind the front axle is not new, and that the two segments of a circle, resting and sliding one on the other, is also not new. In describing the two hooks as con-
29 nected with the two segments of a circle, he speaks of the hooks as projecting over the lower segment, and 'serving as stoppers and preventing from separating.' In summing up, he says he claims as his invention 'the combination and arrangement of the pivot in the rear of the fore-axle and the segments with the perch and block or perch cross-bar of carriages having perches as hereinbefore described. The phrase 'as hereinbefore described,' taken in connection with the previous part of the context before referred to, embraces the hooks with their functions as described, and makes them a substantial part of the invention claimed. But the plaintiff claims further, that a single hook used in connection with the segments in this combination, placed at the centre and serving to keep the segments together, and not serving also as a 'stopper,' is within his invention and an infringement of it.

"To this proposition we cannot accede. The proof of the state of the art at the time of the plaintiff's invention, given by a number of intelli-

gent witnesses, shows that for a very long period prior to the plaintiff's invention a single hook, sometimes placed before and sometimes behind the segments, had been known and in general use among carriage-makers. Those hooks served to keep the plates together and not to limit their lateral motions. It was also proved by the same witness, in that connection, that the same combination of the same things, with one hook thus placed instead of two, as placed by the patentee, had been known and used at an equally early and for an equally long period; but that hooks placed as the patentee's are, and performing the functions of 'stoppers,' to use his phrase, were new. We hold that the position and functions of the plaintiff's hooks, as described in his patent, are a part of his invention, and a material part of it, and we construe the patent accordingly. A single hook at the centre of the segments, whether before or behind, we hold is not an infringement of the plaintiff's patent."

To which charge the plaintiff then and there, in the presence of the jury, excepted and prayed that this his bill of exceptions be signed and sealed therefor, and ordered to be recorded, which is done.

N. H. SWAYNE. [SEAL.]
H. H. LEAVITT. [SEAL.]

Exhibit A to foregoing bill of exceptions.

The U. States (Eagle) Patent Office.

To all persons to whom these presents shall come, greeting:

This is to certify that the annexed is a true copy from the records of this office of letters-patent reissued to Gustavus L. Haussknecht, March 17th, 1857.

In testimony whereof I, Joseph Holt, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this 11th day of October, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States the eighty-third.

[SEAL.] J. HOLT.

Reissue No. 437.

The United States of America to all to whom these letters-patent shall come:

Whereas Gustavus L. Haussknecht, of New Haven, Conn., has alleged that he has invented a new and useful improvement in running-gear of carriages, (for which letters-patent were issued to him, dated 13th Jan'y, 1852, which letters, having been surrendered by him, the same have been cancelled & new letters ordered to issue to him on an amended specification,) which he states has not been known or used before his application; has made oath his intention to become a citizen of the United States, that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the treasury of the United States the sum of fifteen dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose:

These are therefore to grant, according to law, to the said Gustavus L. Haussknecht, his heirs, administrators, or assigns, for the term of fourteen years from the said thirteenth day of January, one thou-
32 sand eight hundred and fifty-two, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Haussknecht in the schedule hereunto annexed and made part of these presents.

In testimony whereof I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand at the city of Washington, this seventeenth day of March, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-first.

[SEAL.]

JACOB THOMPSON,
Secretary of the Interior.

Countersigned and sealed with the seal of the Patent Office.

C. MASON,
Commissioner of Patents.

The schedule referred to in these letters-patent and making part of the same.

Be it known that I, Gustavus L. Haussknecht, of the city and county of New Haven, State of Connecticut, have invented certain new and useful improvements in the running-gear of carriages or vehicles,
33 and I do hereby declare that the following is a full, clear, and exact description of the same, reference being had to the accompanying drawings forming part of this specification, in which—

Fig 1 is a side elevation of a carriage.

Fig. 2 is a front view of the fore-axle or carriage, the wheels being removed, & a representation of parts belonging thereto.

Fig. 4 is half a bottom view of the same.

Fig. 3 represents a view of a fore-axle or carriage, the wheels being removed where the spring is fastened to the axle and moving with the same.

Fig. 5 is a side elevation of a two-horse carriage.

Fig. 6 is a half-bottom view of the same.

To enable others skilled in the art to make and use my invention, I will proceed minutely to describe it.

Fig. 1, 2, 4: (B) is the hand, and (*i*) is the front axle, on the ends of which the running wheels revolve. (*m*) is the front eliptic spring; the upper half of the spring is firmly secured at its center to the spring bar (*n*), which supports the body of the carriage, and its lower half to the head block (*l*), attached to the end of the perch (*k*), and the under side of which is secured to a traveling segment (a^1), which moves over or upon an under segment (*a*) secured to the front axle. (*b*) is the center or an eye of the arm attached to the segment which couples the fore-axle to the carriage at (*b*), where the pivot pin is secured to a similar arm of the upper segment, and made fast to the perch. (A) represents the ten segments or couplings commonly called fifth-wheels, to the upper one of which are fastened two hooks (*c c*), projecting
34 over the edge of the lower one, serving as stoppers and preventing from separating.

Fig. 3: (*m*) is a spring fastend to the axle (*i*), and moving with the

the same. (A) represents the couplings of the fore-axle, (the head block is dispensed with. (*n*) is the spring bar, the under side of which is firmly secured to a traveling segment (*d*), which moves over or upon an under segment (*d'*) fastened to the top of the spring. (*b*) is the center of the two segments, or where the same are connected by a pin placed perpendicularly over the lower pivot or turning point of the lower couplings. The mode of construction at Fig. 5 & 6 is *mearly* the same as described in Fig. 1, 2, 4; only that carriages with stiff poles require full circles or plates called fifth-wheels shown at (A), to resist the weight or action of the pole which operates as a lever, unless its weight is carried by the horses at the front end.

My improvement permits the use of large fore-wheels, with all the advantages derived therefrom, and can be adapted to vehicles or carriages where the body is elevated some distance above the fifth-wheels and axles, describing a quicker curve or smaller circle with perfect safety. The distance of placing the turning point in rear of the forward axle depends upon the track of wheels; for instance, say 8 inches for narrow track, or 4 inches for wide track. The fore-axle and head block are not weakened by a large ring-bolt hole, as in the common mode of construction, and the forward wheels are saved from being strained by cramping around, whereby most of the spokes are getting loose in the hubs.

35 I am aware that carriages have been described where the pivot which connects the front running-gear with the hind part or body thereof is placed behind the fore-axle and combined with two segments of circles resting and sliding the one on the other, and the center point of which rests over and some distance above center of the front axle, and I therefore do not claim this as my invention; but what I do claim as my invention, and for which I ask letters-patent, is—

1st. The combination and arrangement of the pivot in the rear of the fore-axle, and the segments with the perch and head block or perch cross-bar of carriages having perches, as hereinbefore described, or the equivalents thereto, for the purpose of enabling carriages to turn a shorter space than by the common mode of coupling, with perfect safety.

2d. I claim the additional set of segments or their equivalents, the pivot placed perpendicularly above the lower turning point to be employed where the springs are fastened to the axle and move with the same.

GUSTAVUS L. HAUSSKNECHT.

Witnesses:
THOMAS C. DONN.
CHARLES KEMBEL.

(Here follow diagrams marked pages 36 and 37.)

38 *Exhibit B to foregoing bill of exceptions.*

To N. F. CLAYPOOL & WILLIAM LYNN:

You are hereby notified that the deposition of William Clancy will be taken at my office, in Zanesville City, Muskingum County, and within the southern district of Ohio, and before me, James Cochran, U. S. commissioner for the district aforesaid, at my office, in said Zanesville City, on the 27th day of February, A. D. 1860, commencing at the hour of two o'clock p. m., and continue until said deposition is completed in

the case pending in the United States circuit court, at Cincinnati, for said southern district aforesaid, wherein Gustavus L. Haussknecht is plaintiff, and N. F. Claypool and William Lynn are the defendants, when you can attend the taking of said deposition if you think proper.

Respectfully, &c.,

JAMES COCHRAN,
U. S. Commissioner.

FEB'Y 27, 1860.

I hereby certify that notice of taking the deposition of William Clancy was served on me this twenty-seventh day of Febr., 1860, A. D.

W. LYNN.

SOUTHERN DIST. OF THE STATE OF OHIO,
Muskingum County, ss:

Before me, James Cochran, United States commissioner for the district aforesaid, personally came Gustavus L. Haussknecht, who, being duly sworn according to , deposes and says that he did in person serve the firm of N. F. Claypool & Co. with the notice for taking the withing deposition, who endorsed the same in his presence as above.

GUSTAVUS L. HAUSSKNECHT.

Sworn to & subscribed before me, as such com'r aforesaid, this 27th day of February, A. D. 1860.

39 [SEAL.] JAMES COCHRAN,
United States Comm'r.

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF OHIO,
Muskingum County, Zanesville City, ss:

Be it remembered that, on this twenty-seventh day of February, in the year of our Lord one thousand eight hundred and sixty, I, James Cochran, a commissioner duly appointed by the circuit court of the United States for the southern district of Ohio, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, did call, and cause to be and personally appear before me, at my office, in said district, in the city of Zanesville, in the said southern district of Ohio, in the State aforesaid, William Clancy, to testify and the truth to say, on the part and behalf of the plaintiff, in a certain suit or matter of controversy now depending and undetermined in the circuit court of the United States for the southern district of Ohio, wherein Gustavus L. Haussknecht is the plaintiff, and Norton F. Claypool and William Lynn are defendants.

40 And the said WILLIAM CLANCY, being about the age of thirty-six years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the matter of controversy aforesaid, I did carefully examine the said William Clancy, and he did thereupon depose, testify, and say as follows, viz:

1st question. What is your occupation and place of residence?

Answer. I am carriage-maker, and have followed that business nineteen years; and have resided in Zanesville City, Ohio, for the space of fifteen years, with occasional absence.

2d question. Do you or not know either or both of the defendants in this case?

Answer. Yes, sir; I know both of the defendants in this case.

3d question. Did you or not have any business connection with the above defendant? If so, state what they were, and in what business those defendants were engaged in.

Answer. Said defendants were engaged in the carriage manufactory for about two years, during which time I was their foreman, about one-half their time in Zanesville City, and the other half of the time in Irville, within this said county of Muskingum, Ohio.

4th question. Please state at what time defendants commenced the business of carriage manufacturing, and where, and what was the name of the firm.

Answer. They commenced business aforesaid on the 11th day of November, A. D. 1857, at both Irville and Zanesville, under the firm name of N. F. Claypool & Co.

5th question. Please state what was your duty or capacity when you acted as foreman aforesaid.

Answer. To oversee the work in said establishment, and keep a memorandum of the number of carriages manufactured by said firm.

41 6th question. If you had to oversee the work, you will please state if carriages generally manufactured by the firm were made on the common plan. How, or on what different mode from the common plan aforesaid?

Answer. None, that I recollect, were made on the common plan, but were made on a plan for shorter turning, usually called the patent coupling.

7th question. Will or can you describe the arrangement or the construction of said coupling by them used and applied to the carriages manufactured by the firm aforesaid?

Answer. The arrangement consists of placing the "king bolt," made in the common form, some distance in the rear of the front axle; there were two segments or part circles applied, one fastened on top of the front axle, the other on the bottom of the head block; one resting and sliding upon the other, and working from the king bolt or turning point, which was the center of the circles, both segments being the same length and projecting to the rear of the head block and axle. There was a hook attached to the center of the upper segment, working over edge and under the lower segment, with the hook fitted tightly, to prevent seperating of the two segments, so that, when in operation for turning, they would slide and turn upon the one plane movement.

8th question. How many carriages were manufactured and sold by the firm of N. F. Claypool & Co. with the turning arrangement which you have above described, during the time you have been engaged by them?

Answer. I should judge from one hundred and thirty-five to one hundred and fifty carriages with the above turning apparatus have been manufactured & sold by the firm aforesaid during the time I have

42 been engaged with them, excepting about twenty or twenty-five, which now remain unsold. I cannot say precisely what number was on hand made by their predecessor when they became possessed of the establishment, but suppose there may have been twelve or fifteen carriages constructed on the plan aforesaid.

9th question. Have you been engaged with said firm the whole time they have carried on the carriage-making business?

Answer. I have, with the exception of about three months, during which time I done little or no business for anybody. This was after the time N. F. Claypool & Co. sold out their establishment in Irville, and until I was engaged to attend their establishment in Zanesville.

WILLIAM CLANCY.

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF OHIO,
Muskingum County, Zanesville City, ss:

I, James Cochran, a commissioner duly appointed by the circuit court of the United States for the southern district of Ohio, under and by virtue of the acts of Congress entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed February 20th, 1812, and the act of Congress entitled "An act in addition to an act entitled 'An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed March 1st, 1817, and the act entitled "An act to establish the judicial courts of the United States," passed September 24th, 1789, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, the witness' testimony is material and necessary in the cause in the caption of the said de-
43 position named, and that he resides at Zanesville City, Muskingum County, Ohio, over one hundred miles from the city of Cincinnati, where the plaintiff expects the said cause will be tried.

I further certify that a written notification of the time and place of taking the said deposition, signed by me, was made out and served on the defendants, who have acknowledged the service by endorsing thereon said service, to be present at the taking of the said deposition and to put interrogatories, if he or they might think fit, and that the defendants reside in Zanesville City, over one hundred miles from the city of Cincinnati, where the court of said district court is held, as appointed by law.

I further certify that, on the 27th day of February, in the year of our Lord one thousand eight hundred and sixty, I was attended by Gustavus L. Haussknecht, the plaintiff in said case, and by the witness, who was of sound mind and lawful age, and the witness was by me first carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, and the deposition was by me reduced to writing in the presence of the witness, and from his statement; and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of mailing to the court for which the same was taken.

And I do further certify that I am not of counsel nor attorney for either of the parties in the said deposition and caption named, nor in any way interested in the event of the cause named in said caption.

44 In testimony whereof I have hereunto set my hand and seal this twenty-seventh day of February, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States the eighty-fourth.

[SEAL.] JAMES COCHRAN,
United States Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of Ohio.

And afterwards, to wit, on the twenty-third day of October, in the year of our Lord one thousand eight hundred and sixty-nine, an entry was made upon the journal of said court in the words and figures following, to wit:

Entry.—Jour. O, page 257.

It appearing to the court that a bill of exceptions was allowed in this case on the 20th day of April, A. D. 1864, on application of plaintiff's counsel, it is ordered that pl'ff perfect his transcript by giving bond to the satisfaction of this court in the sum of $500 to prosecute said suit to effect in the Supreme Court U. S.

45

46 Supreme Court of the United States.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the circuit court of the United States within and for the southern district of Ohio, greeting:

Because, in the record and proceedings, and also in the rendition of a judgment in a plea which is in the said circuit court before you between Gustavus L. Haussknecht, plaintiff, and Norton F. Claypool, survivor, &c., defendant, a manifest error hath happened, to the great damage of the said G. L. Haussknecht, as by his complaint appears; and, it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington on the first Monday in the month of December next, in the said Supreme Court then and there to be held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Honorable S. P. Chase, Chief Justice of the said Supreme Court of the United States, this 15th day of November, in the year of our Lord one thousand eight hundred and sixty-nine, and of the independence of the United States of America the 94st.

[SEAL.] Attest: JOHN McLEAN, *Clerk.*

47 The United States of America, Supreme Court of the United States, to Norton F. Claypool, survivor, &c., greeting:

Whereas Gustavus L. Haussknecht obtained the allowance of our writ of error, to the judges of the circuit court of the United States within and for the southern district of Ohio directed, to remove into the said Supreme Court, to be holden at the city of Washington on the first Monday in the month of December next, the record of a certain plaint, process, proceedings, and judgment in an action of trespass on the case, wherein you, the said Norton F. Claypool, survivor, &c., in that action lately recovered against the said Gustavus L. Haussknecht a judgment and costs, as by the said record in the said circuit court of the United

States for said district remaining appears, in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said Gustavus L. Haussknecht we are informed, and our said writ of error granted, issued, and allowed as aforesaid, for the purpose of correcting the errors aforesaid alledged, if any there be:

You are, therefore, hereby again commanded and cited to be and appear before the judges of the said Supreme Court, at the city of Washington, at the next term of said court, to be holden on the first Monday in the month of December next, to have the errors aforesaid corrected and the judgment of our said Supreme Court thereupon.

Witness the Honorable S. P. Chase, Chief Justice of the United States of America, this 15th day of November, in the year of our Lord one thousand eight hundred and sixty-nine, and of the independence of the United States of America the 94th.

[SEAL.] H. H. LEAVITT.

CINCINNATI, *November* 15, 1869.

I acknowledge that the marshall has served this day a copy of this writ on me for the within-named Norton F. Claypool, & I acknowledge for him the service.

C. D. COFFIN, *for Claypool.*

15 Nov., 1869.

Received this writ at 10 o'clock a. m., Nov. 15, '69, and at 11½ o'clock a. m., same day, served copy upon Judge C. D. Coffin, attorney for the within-named Norton F. Claypool.

A. HICKENLOOPER,
U. S. Marshal S. D. O.,
By W. D. DEMPETE, *Deputy.*

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48 *Appeal bond.*

Know all men by these presents, that we,

are held and firmly bound unto Norton F. Claypool, survivor, in the full and just sum of five hundred dollars, to be paid to the said Norton F. Claypool, survivor, &c., his certain attorneys, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals, and dated this twenty-second day of November, in the year of our Lord one thousand eight hundred and sixty-nine.

Whereas lately, at a circuit court of the United States within and for the southern district of Ohio, at Cincinnati, in a suit pending in said court between Gustavus L. Haussknecht, plaintiff, and Norton F. Claypool, survivor, &c., defendant, judgment was rendered against the said plaintiff, and the said plaintiff having obtained a writ of error, and filed a copy thereof in the clerk's office of said court, to reverse the judgment

in the aforesaid suit, & a citation directed to the said defendants, citing them to be & appear at a Supreme Court of the United States to be holden at Washington on the first Monday of December next:

Now, the condition of the above obligation is such, that if the said Gustavus L. Haussknecht shall prosecute his writ of error to effect, and answer all damages & costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force & virtue.

E. E. WOOD. [SEAL.]
[SEAL.]

In presence of—
P. C. ROHNER.
H. DOUGLASS.

49 THE UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

I, John McLean, clerk of the circuit court of the United States within and for said district, hereby certify the foregoing transcript to be truly taken and copied from the files and records of said court as the same remain at this office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Cincinnati, this 22d day of October, A. D. 1869, and in the 94th year of American independence.

[SEAL.] Attest: JOHN McLEAN, *Clerk.*

(Indorsement on cover:) No. 437. Gustavus L. Haussknecht, plaintiff in error, vs. Norton F. Claypool. S. Ohio C. C. U. S.
Filed 22d March, 1870.

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United States Supreme Court.

GUSTAVUS L. HAUSSKNECHT,

vs.

NORTON F. CLAYPOOL, et al.

ERROR

TO THE UNITED STATES CIRCUIT COURT, SOUTHERN DISTRICT OF OHIO.

GUSTAVUS L. HAUSSKNECHT.

BROOKLYN:
A. H. ROME & BROTHERS, LAW PRINTERS, 369 FULTON STREET.
1870.

United States Supreme Court.

GUSTAVUS L. HAUSSKNECHT, *vs.* NORTON F. CLAYPOOL, Survivor., etc.	*Error—to the United States Circuit Court, Southern District of Ohio.*

This was an action on the case to recover damages of the defendant for infringing a patent, granted to Gustavus L. Haussknecht for an improvement in the running gear of carriages, dated January 13th, 1852—re-issued March 17th, 1857,—claimed in said re-issued letters patent "for the purpose of enabling carriages to turn in a shorter space than by the common mode of coupling, with perfect safety." Defendant having used, and sold to others to be used, the said improvement in the construction of running gear in carriages, for the purpose of shorter turning, made in the same way and manner, with one hook, "to save labor in making," as the plaintiff and his assignees always done, and publicly recommended by plaintiff's circular, to all intents and purposes producing the same effect by the same means, and the same mode or manner of operation, employing in all those cases of using the improvement the same elements

claimed in said re-issued patent, claim No. 1, which is the only claim infringed, and referred to.

Defendant showed that the use of only one hook in the construction of his coupling was the only difference from the description as worded in plaintiff's patent of two hooks, not proving any difference in the mode or manner of operation for shorter turning, laying no particular weight upon the supposed difference, it being, to say the least, surprising or astonishing that the Court substantially decided the case by charging the jury that the defendant had not infringed the plaintiff's patent, because he only used one hook, and vaguely alluded to prior use.

The real questions are, therefore:

What construction shall be given to Haussknecht's patent?

What constitutes an infringment on Haussknecht's patent?

What constitutes prior use or prior knowledge of Haussknecht's invention?

How to prove prior use or prior knowledge of Haussknecht's invention?

It is hardly necessary to call the attention of this Court to the well known proposition, that patents are to be liberally construed, so as to save the inventor the substance of his invention, which is the child of his brains, or the object attained by his labor; and having embodied the nature, and extent of the subject matter of his invention in its best form in his claim, granted by the government of the United States, it must not frivolously be destroyed through misapprehensions, by drawing two hooks, or any other descriptive immaterial matter into the substance of his patent, which Haussknecht never sought or desired to claim, or he would have

said so, especially such descriptive immaterial matter, which may be subject to various modifications or different objects from his subject matter.

See Curtis on Patents, section 126.
Winans vs. Denmead, 15 How., 330.
Blanchard vs. Sprague, 2 Story, 169.
Blanchard vs. Warner, 1 Blatchford, 259.
Blanchard vs. Beers, 2 Blatchford, 411.

If Haussknecht's re-issued letters patent shall receive from your Honors the usual construction given to patents in this high tribunal, or the usual construction given in the various Circuit Courts of the United States, it must unquestionably cover the method, or mode and manner of operation employed for shorter turning in the construction of running gear for carriages, manufactured and sold by the defendant.

WHAT THE HAUSSKNECHT PATENT AND INVENTION IS.

Haussknecht's patent belongs to that class of patents granted for a combination of well known things or elements, arranged in a new way to produce new and useful results to the public, not before attained.

The invention can hardly be said to be obvious which has taken so long a time to find out, and to bring the subject matter to such an enormous practical use, as proved on the trial of this case.

Defendant's notices of special matter represent to prove prior knowledge of plaintiff's invention by printed publications:

1. In Reed's Cyclopedia, published in Philadelphia, Penn., from 1812 to 1824.

2. In *Brevett's d' Invention*, published 1850, de-describing a French patent, dated 1838.

3. In the Cultivator, published at Albany, N. Y., 1847.

Also represent to prove prior use in several

places, even in plaintiff's own place of residence, New Haven, Conn., and by several parties being engaged in the same art of manufacturing carriages as plaintiff was at the time of his application for this patent, those places and parties being well known to the plaintiff at that time. There is no possibility of supposing plaintiff would make an application for a patent for a thing well known at that time in his branch of business; it is not probable that such an improvement was described prior; such a long time could not have elapsed, unless the improvement being in the same general public use, which it had attained in the same period of time after plaintiff's invention in those places named in defendant's notices. It appeared at the trial, that from said publications several experiments were tried for practical use in various places, but proved to be abandoned failures. The Everett invention only had one existence, and that used by said Everett many years without ever finding an imitator. Defendant did not, and could not prove that his coupling for shorter turning of carriages was the same in substance as any of the devices mentioned in said notices, by which he intended to prove prior use, or prior knowledge. Therefore defendant's notices appear on the face with bad grace, and not introduced for any honest intention or purpose.

The title of Haussknecht's invention is: "A new and useful improvement in running gear of carriages," describing a class where the body is supported by springs, (the improvement having no direct connection with the body, such he disclaims as his invention); but he does claim it in that form which most perfectly embodies his invention, "in carriages having perches as hereinbefore described." (See claim and specification.) The springs being fastened

on top of running gear, in front to the headblock, he claims "the combination and arrangement of the pivot in the rear of the fore axle, and the segments with the perch and headblock, or the equivalents thereto," of said carriages described and incorporated therewith; he claims said arranged combination for the purpose "of enabling such carriages to turn in a shorter space than by the common mode of coupling, performing the operation of his invention with perfect safety by the one plane lateral motion between the parts combined and attached thereto, when in practical use for turning. The patentee knew, at the time of his invention that lumber wagons, or that class having no elastic springs to support the body, require for their turning arrangement or coupling a rocking motion, beside the lateral motion for turning, and that his improvement would be impracticable for that class of wagons, therefore confined the arrangement of his improvement to such class of carriages as he claims of having elastic springs, and perches.

The best practical principle for a true test of novelty is: first, to give to the Haussknecht patent a true, just and correct construction, laid down by Courts of Justice, as settled patent law. That where the combination of known elements produces new and useful results to the public not before attained, then the person who discovers and applies that combination is the inventor within the true intent and meaning of the patent law.

I refer to

Prouty & Mears vs. Draper & Ruggles, et al., 16 Peters, 336.
Godson J. Burke's Law of Patents and Copyrights, 63.
Many vs. Geo. W. Lizer, et al., D. C. Mass in Jan. T. 1849, referred to Commissioner Holt's decision in Phelan's case
Curtis on Patents, sections 24, 73, 94.
Ryan vs. Godwin, 3 Sumners' Report 514.

The decisions of James Dunlop, of the Circuit Court of the District of Columbia, in the case of Alburtus Laroue, 5th March, 1860, and in the case of B. C. Smith, December, 21st 1860.

It is perfectly clear that the Court below erred in the construction of Haussknecht's patent, charging: "We hold that the position and functions of the plaintiff's hooks, as described in his patent, are a part of his invention, and a material part of it, and we construe the patent accordingly." Such holding is untenable and entirely void if that conclusion is derived from the phrase, "as hereinbefore described." If it can be construed as meaning the hooks why can it not mean any thing else? The arm of the segments, the axle and their function, the springs and their function, or any other thing not claimed. This assumption is preposterous, when the claim of the patent says in as plain language as the meaning can be expressed, "of carriages having perches, as hereinbefore described."

It being proved at the trial, by the defendant himself and other witnesses, that defendant was engaged in the manufacture of that class of carriages, having springs and perches as described in plaintiff's patent. The deposition of Wm. Clancey in the seventh answer (See Exhibit B of Transcript,) fully proved the mode and manner of operation for shorter turning, used in the construction of the running gear of defendant's carriages. The operation and principle are the same; the combination and arrangement are the same; the result being the same as in Haussknecht's patent. By every known principle of settled patent law, there is a clear infringement.

See Curtis on Patents. § 221, Wyeth vs. Stone, 1 Story, 273.
Odiorne vs. Winkley, 2 Gallis, 51.
Winans vs. Denmead, 15 How 330.

It is clear the Court below erred in charging. A single hook at the centre of the segments, whether before or behind, is not an infringement of the plaintiff's patent; this goes a little beyond common sense and sound reason. Plaintiff maintains: That he has not invented a stopping arrangement or operation designed for not permitting the fore wheels to strike against the body when turning, preventing or limiting the shortest turning, such would be in contradiction to his objects, to attain the largest reasonable and safe gain possible, as he says in his patent where the wheels describe a quicker curve, or smaller circle, permitting the use of large fore wheels.

I would only remark that the Court below refused to take notice of the one hook shown by the plaintiff in his patent at (a) in Fig. 5 & 6, sec. (A), and refused to accede to plaintiff's proposition to charge the Jury as stated in Bill of Exceptions, which proposition contains correct law.

The Judge of the court below, avoided a construction of the principle of the Haussknecht patent, said patent being entirely misunderstood; it stands to sound reason, that that court below could not arrive at a true and correct conclusion on proofs offered for alleged prior use or prior knowledge.

Plaintiff maintains, in order to prove prior use or knowledge, it is necessary to prove that the identical mode or manner of producing the effects of plaintiffs were used or described prior; that is, where the whole thing or carriage, and the several parts thereof, operated with, or being operated upon, in the identical way, by the same identical combination, identically arranged, to produce the same identical one plane lateral motion, for the same results explained, no such operation and

effects being proved; therefore, no prior use was proved at the trial.

See Curtis on Patents, § 3, § 96.
Whitemore vs. Cutter, 1 Gallis. 480.

It is clear the court being in error, even if the charge to the jury, referring to the false allegations of the witnesses' evidence were true; but plaintiff always has objected to said false allegations, and still objects to the same, as in his affidavit stated, which is appended to transcript. The original Bill of Exceptions not being in the handwriting of G. M. Lee, Attorney for plaintiff, but written by the clerk upon the order of the judge, after the bill was altered by Judge Leavitt, who struck out some parts, and interlined others, the charge to the jury was incorporated entire, which is against the rules, the judges ought not to sign their names to such false allegations, and afterwards refusing to alter the bill on the proposal to get the statements of facts from the witnesses themselves, for correction.

The plaintiff objected to the ruling of the court, admitting evidence to which no sufficient notice was given to justify its admission to attack the novelty of Haussknecht's patent, referring to the case of Latta vs. Shawk, tried April, 1859, at the United States Circuit, held in Cincinnati, O. Plaintiff's objection was founded on correct law, and the spirit of the 15th section of the Patent Act, which provides against surprises; but the court overruled the objection. Plaintiff excepted, and refrained from cross-examination of witnesses whose testimony was improperly admitted. John Gosling, McIntosh, and a number of other witnesses gave their testimony under said ruling, their names, places of residence and what particular part of the invention was to be charged with want of novelty, by their evidence, was not given in any way or form by defendant's

notices of special matter, under general issue, (See notices). Other parties whose names were given in said notices, could not be found, and were not residents of the places named in said notices, and what particular part of the invention was to be charged with want of novelty by the evidence to be given, by any or either of the parties named in said notices; also the owner and places of using such carriages was entirely omitted; therefore, said notices not being sufficient. Under said insufficient notices defendant succeeded to introduce abundance of false testimony, which plaintiff was hardly able to contradict. McBride testified of having owned carriages for shorter turning, which in fact proved were not constructed for any such purpose. Wm. Cassel testified having owned and used a carriage for shorter turning which was in fact altered, to the plan represented under the Everett patent of December 17th, 1850. McIntosh testified, having seen a carriage made under said patent, when a blacksmith boy 16 years old; in fact he claimed to have seen it several years before made John and Wm. Launder testified both worked under Everett's patent years before it was granted; it was such testimony defendant relied on for his defence. I cannot compliment the course pursued by defendant's attorney; it was no doubt his object to prevent plaintiff to hunt up, by examination of such carriages to be referred to, the facts in the case, and to influence the minds of the jury and court, by what is called pettifogging practice; and he seems to have succeeded on the mind of the court.

The error of the court admitting evidence without sufficient notice seems clear.

See Curtis on Patents, § 272.
Whittemore vs. Cutter, 1 Gallis, 429.
Grant vs. Raymond, 6 Peters, 218, See § 284, 1 Ibid, See § 285.
Evans vs. Eaton, Peters' C. C. R., 322.

I do not think it necessary to argue the effect of defendant's evidence attempting to show prior use or knowledge. If any of such existed defendant need not resort to that pettifogging line of defence. He could not and did not prove the identity of what he used for shorter turning of his carriages, to be the same identical thing, in its mode and manner of operation of what was formerly used or known. But upon this question of novelty the jury was not called to pass upon. The court blotted out the question of novelty by its charge, and in substance plainly ordered the jury to find for defendant, because he had only used one hook, which order the jury obeyed by finding as directed, without leaving their seats to retire for deliberation. * * It belongs legitimately to this high tribunal to decide whether the Haussknecht patent is for the stopping operation of two hooks, which he does not claim, it cannot be so construed. What a charge! It is in the face of all the decisions of this court, and almost in the words of the charge which was reversed in Batten vs. Taggart, 17 How 80; Winans vs. Denmead, 15 Howard, 330, where this court said: The patentee having described his invention, and shown its principles, and claimed it in that form which most perfectly embodies it.

Said charge took the whole case from the jury, and left them nothing to find, and was in direct antagonism with the law, with the above quoted decisions, and with the language and meaning of the patent itself. The judge avoiding any construction of the principle of Haussknecht's patent, to distinguish the same from the method of working or operation, from other or similar devices. The wording of the charge interlined by Judge Leavitt, which is in direct antagonism to the laws, the rules, and the language and meaning of the

witnesses, which reads: "It was also proved by the same witnesses in that connection, that the same combination of the same things, had been known and used prior." It should read, "It was also proved by the same witnesses that the names of the said combination of things were known or used prior, to designate certain parts of a carriage, no mode or manner of operation for prior shorter turning, was proved by the said witnesses in whole, nor in part of each of the elements named by them; no mode or manner of operation of their prior knowledge is given in the interlined charge, that part of the charge is therefore irrelevant. The judge appears to have been able to see nothing in the case but the hooks, and went off in a tangent thereon, charging as a fact to the jury that two hooks were different from one hook, when he should have left this fact to the experts and the jury. It was a matter of fact which he had no business to charge or pass upon; the infringement was a matter of fact which he had no business to charge or pass upon; the prior use or knowledge was a matter of fact which he had no business to charge or pass upon.

Plaintiff claims the court below erred in refusing to charge the jury as requested and stated in Bill of Exceptions in the record; certainly that request contained correct law. The error is substantially covered by the exception taken to the charge, which exception also covers the errors of infringement and prior use, more fully argued herein. The court below also erred in the refusal to rule out improper evidence, as requested by plaintiff, who referred to case of Latta vs. Shawk, Curtis on Patents, and other authorities, containing correct law under the spirit of the 15th section of the Patent Act, which is covered by the exception taken to the ruling, more fully argued herein.

In conclusion, I claim there are errors apparent in the records which should reverse the judgment, praying for an order to recover all the costs paid by plaintiff, stated in the affidavit appended to transcript, to amount $492.41, with interest from the 30th day of October, 1867; also to recover $50 deposited June 10th, 1863, with interest from that date. See Transcript, page 24, marked "Entry jour, M., page 21," together with the just costs in this behalf sustained.

GUSTAVUS L. HAUSSKNECHT,
Plaintiff.

The signature of G. M. Lee, former Attorney in this cause, could not be obtained, as he is reported to be in an insane asylum.